

**MINUTES OF THE MILLVILLE
TOWN COUNCIL MEETING
December 10, 2013 @ 7:00PM**

In attendance were Mayor Gerry Hocker, Deputy Mayor Jon Subity, Council Members Joan Bennett, Robert Gordon and Harry Kent; Town Solicitor Seth Thompson, URS Representative Kyle Gulbranson, and Town Manager Debbie Botchie. Town Clerk Matt Amerling was absent.

1. CALL TO ORDER:

Mayor Gerry Hocker called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Hocker led the pledge of allegiance.

3. ADOPTION OF TOWN COUNCIL MINUTES

Council Member Joan Bennett motioned to adopt the Council minutes and Executive Session minutes from November 12, 2013, as well as the Council Workshop minutes from November 26, 2013. Deputy Mayor Jon Subity seconded the motion. Motion carried 5-0.

4. ACCEPTANCE OF TREASURER'S REPORT

Council Member Bennett read the Financial Report for the month ending 11/30/13.

November 30, 2013:

General Revenue:	\$ 128,679.	General Expenses:	\$ 30,907.
Restricted Revenue:	38,701.	Restricted Expenses:	949.

Deputy Mayor Subity motioned to approve the Treasurer's Report for the month ending November 30, 2013. Council Member Harry Kent seconded the motion. Motion carried 5-0.

5. ADMINISTRATIVE REPORT

Town Manager Debbie Botchie stated she wanted to share that the first Holiday Market this past Saturday, December 7, 2013, was a success for the Town and was very well-attended. Ms. Botchie stated each vendor she spoke with said they made a lot more money than they had anticipated, the event was well-received by the community and the vendors would like to see the Town hold the event again next year. Ms. Botchie stated a very special thanks to all who helped her plan and participate in the event – especially the Millville volunteers.

6. NEW BUSINESS

A. Discuss and possible vote on the FY13 Audit Report – Town Manager

Synopsis: Mr. Herb Geary from the TGM Group, LLC, Certified Public Accountants, will present the audit and will be available for questions.

Mr. Herb Geary, of the TGM Group, LLC, stated the Town of Millville is a fascinating story for him because his group does a lot of local government work, including six (6) school districts in the state of Maryland, five (5) county governments, and at least 30 municipalities in Delaware and Maryland. Mr. Geary further stated it is amazing what the Town does with their building

permits. Mr. Geary stated pages three to five are the Group's audit opinion – an unmodified opinion – and it's the highest level of insurance that an audit firm can give to a local government or any organization. Mr. Geary stated pages six through eight are an internal control letter that TGM reports to the Town, based on in accordance with government standards and there are two comments in it which were from last year, and they are, number one, the Town does not have a sufficient number of people in the accounting department to separate all of the duties and responsibilities but management continues to strive as much as possible to achieve a maximum segregation of duties. Mr. Geary stated the second comment is the fact that the Town – like every municipality client he has – chooses to outsource the preparation of financial statements to the audit firm; however, management very carefully reviews the financial statements and the notes in the financial statements prior to approving them.

Mr. Geary stated pages nine (9) through fourteen (14) are the part of the financial statement called the "Management's Discussion and Analysis," and it is a narrative overview of the financial activities of the Town written by the Town's management team of Town Manager Debbie Botchie and Town Financial Administrator Betsy Christian, which is very well-written and easy to understand. Mr. Geary further stated on pages sixteen (16) and seventeen (17) are the Town statement of net position and statement of activities, and these two statements are based on the accrual basis of accounting – the biggest difference between these two statements and the ones that follow is the recording of property equipment and the depreciation thereof. Mr. Geary stated in the Town of Millville that is probably the only difference. Mr. Geary stated pages eighteen (18) through twenty-one (21) are the fund statements. Mr. Geary further stated the Town has \$1.4 million on hand as of April 30, 2013, not including the restricted cash of \$3.2 million. Mr. Geary stated what is interesting to him, in comparing Millville to other towns, is the unassigned balance of \$1.4 million. Mr. Geary stated the GFOA – the Government Financial Officer Association – has a ratio of unassigned fund balanced to total expenditures, and the GFOA recommends sixteen (16) to twenty (20) percent as "best practice." Mr. Geary stated the Town of Millville is at 300 percent, which is amazing. Mr. Geary further stated pages twenty-two (22) through twenty-eight (28) are the notes and financial statements, which provide further detail regarding the accounting policies of the Town as well as more information on capital assets. Mr. Geary stated the budget information provided on the back of the financial statement shows on pages thirty (30) to thirty-three (33), with the original budget on page 30, the final budget for revenue ending April 30, and the final expenditure budget. Mr. Geary stated it is a very positive year for the Town and he feels very good about the Town's management team, particularly with Ms. Christian.

Council Member Bob Gordon motioned to approve the FY13 Town audit. Deputy Mayor Jon Subity seconded the motion. Motion carried 5-0.

B. Discuss and possible vote on a submission from Mr. Robert Harris, Gulfstream Developers, to open up ten (10) lots in PH 2 – Coventry. *Synopsis:* Coventry is a Residential Planned Community with 76 approved lots to develop. Out of the 76 lots, 38 are sold and settled.

Council Member Harry Kent abstained from this topic due to a possible conflict of interest. Mr. Robert Harris, manager of Gulfstream Developers LLC, stated Gulfstream would like to extend one of the three streets in Coventry, White Clay Drive, in accordance with Gulfstream's

approved plan. Mr. Harris stated Gulfstream would be lengthening the street by about 300 feet and adding 10 additional lots. Mr. Harris stated at the end of the street, Gulfstream would extend the existing temporary turnaround down to the end of the extension. Mr. Harris said there is a reason Gulfstream is requesting this now and that is because there is some extensive road work that is required of Gulfstream by DeIDOT, and Gulfstream cannot do that work until next year. Mr. Harris further stated right now there is Substation Road drainage which comes down along Coventry's property line and into an old ditch, which is going to get filled in, but it cannot be filled in until all of the drainage work is completed on Substation Road. Mr. Harris stated Gulfstream's intention is to start that work in April 2014, and it will take them about two-and-a-half months to do the work, which involves re-grading the swales, installing stormwater piping, and some super elevation – all of which is to take excess water off the street. Mr. Harris stated once Gulfstream has done that, the temporary swale will be abandoned, the old ditch will be filled in, and both streets will be extended to tie into the street which is a part of Bishop's Landing. Mr. Harris stated the tie-in was originally required of Gulfstream when they got their subdivision approval because Gulfstream has to have a tie-in street so vehicles can drive up and around and have a way to exit out. Mr. Harris stated the intention is to start this work as soon as the offsite grade work is completed – sometimes around June 1, 2014 – and to have all of this completed by the end of the summer. Mr. Harris stated DeIDOT has put a limit on Gulfstream in that Gulfstream cannot have more than 50 certificates of occupancy (C.O.) before Gulfstream have started their work, but that is OK because Gulfstream will not hit its fiftieth C.O. until late next fall. Mr. Harris stated he is here tonight to get Council's approval to extend the street, put the temporary cul-de-sac in, and nothing else will change, and to start the project as soon as possible.

URS representative Kyle Gulbranson stated he has seen Mr. Harris' timetable for completion of the other improvements on the site and Mr. Gulbranson does not have any concerns or issues at this time. Mr. Gulbranson stated Gulfstream will most likely be completing all of the streets in the next year after Gulfstream deals with its DeIDOT issues, so a temporary cul-de-sac, at this point, is a good option. Mayor Gerry Hocker motioned to approve to open up the 10 lots in Phase 2 of Coventry. Council Member Bob Gordon seconded the motion. Motion carried 4-0.

C. Discuss and possible vote on a three year (3) year extension on the approved final site plans for the Dove Landing Residential Planned Community. *Synopsis:*

Final Plans for the Dove Landing RPC was approved in December of 2007; the Code states a subdivision will be deemed null and void after three (3) years of recording unless substantial construction is in place. The developer was granted a three (3) extension on February 8, 2011.

Mayor Hocker stated item C will not be discussed this evening because the representatives could not attend the Council meeting due to inclement weather, but will be tabled for another future meeting.

D. Discuss and possible vote on a site plan submission by Millville Town Center, LLC, to revise sub-phase 2C-2 in Millville by the Sea (MBTS), located at map parcel 134-12.00-380.00 (Part Of). *Synopsis:* Millville Town Center is asking to construct a secondary access road in accordance with the revised plans by CEA, dated September 30, 2013, for MBTS, sub-phase 2C-2. The Planning & Zoning met on October 21, 2013 to review and has recommended Council approve the final site plan with conditions.

Mr. Chuck Ellison, of Miller & Smith, stated when the site plan for the MBTS lifestyle center was originally submitted and approved, Miller & Smith had some discussion with the Town about providing a secondary access road in case there was a need for emergency vehicle access entranceway off Substation Road. Mr. Ellison stated Council Member Harry Kent was very helpful because Miller & Smith were running into some challenges with DelDOT – improvements DelDOT wanted – and Mr. Kent asked why doesn't the road come off the existing parking lot down by Miller & Smith's project office, which is the long road that is shown as marked on the sheet provided by Mr. Ellison to Council. Mr. Ellison stated this brought up running a connection from Endless Summer Drive to Roxana Road, which would be significantly shorter and more sensible since the emergency medical technician (EMT) is located on Roxana Road as well as the various fire departments. Mr. Ellison further stated DelDOT thought this was a great idea and has issued a safe permit for an entrance with gates so through-traffic could not always use the roadway. Mr. Ellison stated Miller & Smith has also submitted plans to the Fire Marshal and met with the Millville Volunteer Fire Department to make arrangements for how Miller & Smith will secure the gates. Mr. Ellison stated the fire department has provided them with letters on this information and the Fire Marshal has also issued a permit. Mr. Ellison stated in essence what Miller & Smith is requesting with this plan is rather than building this long, gravel emergency access road, is to replace it with building a relatively short road directly off Roxana Road. Mr. Ellison stated Miller & Smith surely think this plan is an improvement and a much safer, efficient alternative to what was first planned. Mr. Ellison stated there were conditions on the original approval that access had to be in before any occupancy permits were issued and Miller & Smith assume that condition will stay in place. Mr. Ellison further stated Miller & Smith is not asking for any revisions for those conditions, but simply the location and length of the roadway.

Council Member Harry Kent stated he is pleased to see what Miller & Smith have accomplished but Mr. Kent does have a concern with the DelDOT approval because it has a moratorium on it. Mr. Kent stated he is assuming it is one year from the date of the approval document, which will make it August of 2014, and the temporary access permit would "disappear." Mr. Kent further stated this concerns him because if the Town is going to have this road, he wants to be assured that, under some future situation, DelDOT doesn't tell Miller & Smith has to close up the roadway and there will then be no secondary access. Mr. Kent stated Miller & Smith has both approval from the Fire Marshal and the local fire service, which is great, but he is concerned with this one DelDOT item. Mr. Kent asked Mr. Ellison if he has had any subsequent conversation with DelDOT since they issued the document on August 26, 2013. Mr. Ellison stated he may have misunderstood the time limit because his understanding was that Miller & Smith had one year to get the permits in. Mr. Kent stated the DelDOT letter stated, "If the proposed use changes, the entrance will no longer be valid and will require a formal plan submittal. This temporary entrance permit will only be valid for one (1) year." Mr. Kent stated that quote would say to him that if Miller & Smith does not have everything in place, then, theoretically, the State of Delaware will come and cut Miller & Smith's road off, which would be a real problem to Mr. Kent. Town Solicitor Seth Thompson stated there is language in the very end of DelDOT's letter – which is DelDOT's "form language" – that does seem to support the notion that construction needs to be completed within the one (1) year as opposed to Miller & Smith's use of the entrance expiring. Mr. Thompson stated the language basically states, "If, upon expiration of this permit, work is incomplete or not performed according to the aforesaid

plan and specifications, and no extension is applied for and issued, this permit shall become null and void for all legal purposes and the entrance shall be considered illegal with reference to 17 Del. C. 146.” Mr. Thompson stated it does sound to him that construction needs to be complete and it sounds like DelDOT has some sort of procedure for requesting an extension. Mr. Thompson stated he does not know if Mr. Ellison can address how long it will take to build the secondary access road. Mr. Ellison stated the road will be in shortly after the first of the year (2014) because it has to be in before the community center buildings are in and Miller & Smith are pushing to get those buildings in fairly soon. URS representative Kyle Gulbranson stated it sounds like the permit is talking about the permanence of the road. Mr. Ellison stated Miller & Smith can probably get a clarification from DelDOT and Mr. Ellison can tell Council when Miller & Smith met with DelDOT, and this is not a temporary thing. Mr. Kent stated when one looks at the DelDOT document, there is a part of the language which appears to have been typed in separately and that is why he is concerned because it seems to say to him that there is some gray area here and Mr. Kent’s experience with DelDOT is that Mr. Kent does not like gray areas. Mr. Kent stated he would not like either the Town or Miller & Smith get into a situation where the road is opened up and then, a year from now, the road will suddenly have to be closed off because Miller & Smith did not do whatever was stated in the letter. Mr. Thompson stated he thinks the confusion stems from the fact that the boiler plate refers to the permit for entrance construction, but then, in the specific language for this application, the term used is “temporary.” Mr. Kent stated yes, that is what “throws him off” into concern. Mr. Thompson stated DelDOT is using the word “temporary” obviously because either the entrance can only be where it is for a year, or the construction has to be done in a year, and it’s a little odd that the boiler plate would not have the time limit. Mr. Kent stated no one can definitely say from any item that it’s “this” or “that” because the wording puts the two in conflict. Mr. Thompson stated the language at the bottom of the letter – the boiler plate language – seems to be the clearest indicator that the construction needs to be completed within that year and it sounds like that is what Mr. Ellison’s understanding is as well, but Mr. Thompson does also see Mr. Kent’s point. Mr. Thompson further stated it really is the sentence “This temporary entrance permit will only be valid for one (1) year” that sounds unclear, but if you think of the entrance permit as being the permit for construction, then it makes sense that it will only be valid for one year. Mr. Kent stated he can relate to that, but the way the sentence is worded, Mr. Kent does not see that sentence saying what Mr. Thompson proposed. Mayor Gerry Hocker stated the date is August and if Miller & Smith is starting at the first of the year, then there may be no issue. Mr. Ellison read the statement and stated he did not pick up on the way that was worded when Miller & Smith filed for a permit, but he has no problem with going back to the DelDOT office and getting more clarification on that sentence, because Mr. Ellison knows – out of all Miller & Smith’s discussions with DelDOT – the consensus was not one year. Mr. Ellison further stated Miller & Smith would be happy to table this plan and take it back to DelDOT to get clarification. Council agreed that would be best for everybody. Mr. Thompson stated the boiler plate seems to make it clear that it is the construction time period; however, it is the language DelDOT added in on this particular permit that creates the ambiguity. Mr. Ellison stated he understands the Council’s concerns. Mr. Gulbranson stated in terms of all the engineering information Miller & Smith has sent to URS, all comments have been addressed and this language would be the only concern with the plan.

Deputy Mayor Jon Subity motioned to approve the site plan submission by Millville Town Center, LLC, to revise sub-phase 2C-2 in Millville by the Sea (MBTS), located at map parcel

134-12.00-380.00 (Part Of) with the condition that Miller & Smith get DeIDOT to clarify DeIDOT's entrance construction permit as a period of one (1) year being for constructing the entrance as opposed to having the entrance open (i.e., one (1) year to construct the entrance and *not* that the entrance can only be open for one (1) year). Mr. Kent seconded the motion. Motion carried 5-0.

E. Mr. Chuck Ellison, Vice President of Miller & Smith, developers for Millville by the Sea will update the Town Council with information on the current developing within the Master Plan.

Mr. Chuck Ellison, of Miller & Smith, stated he wanted to briefly bring the Council up-to-date on what was going on at Millville by the Sea (MBTS), and what most have probably seen the construction of the lifestyle center at the intersection of Substation Road and Burbage Road. Mr. Ellison handed out some photographs of the progress and explained the views of the photographs. Mr. Ellison further stated a major item of the construction is that Miller & Smith have an ambitious schedule and they have started building a small pavilion (he called the "Crab Shack") as well as setting the date of February 17, 2014, for the interior designers to come in and put all of the furniture in place. Mr. Ellison stated Miller & Smith are rapidly nearing completion and about six weeks ago, Miller & Smith provided "hard hat tours" for the community so they could get a feel for how progress was coming along.

Mr. Ellison stated the next area he would like to present is what is adjacent to the lifestyle center, which is Summerwind Village, and its entrance road Endless Summer Drive. Mr. Ellison stated Miller & Smith decided they would create a small model park located at the intersection of Endless Summer Drive and Substation Road. Mr. Ellison further stated there would be four (4) lots in there and Miller & Smith will build new models of what they are building today – including the Avalon product line, which can be seen in Sand Dollar Village – and two new products which Miller & Smith will build, one of which will be a one-story ranch house and the other being a "traditional two-story" with a master bedroom on the first floor and all other bedrooms on the second floor. Mr. Ellison further stated the Planning & Zoning (P&Z) gave its approval at its November 2013 meeting, and Miller & Smith have submitted final plans for review by the various agencies, and hope to begin development on this part – the main part – as soon as Miller & Smith get the main plans through. Mr. Ellison stated Miller & Smith are still awaiting approval from Sussex County on the sewer but they should have that by this week, so they would most likely come again before Council at its February 2014 meeting.

Town Manager Debbie Botchie asked Mr. Ellison if any of the new houses would have a little side porch like the cottages currently offered at MBTS. Mr. Ellison stated no, the cottages Miller & Smith are building now in Sand Dollar Village have seven (7) variations. Mr. Ellison stated the last area of new construction prior to Miller & Smith getting a revised master plan approved is located on the far side of Sand Dollar Lake, from Sand Dollar Village both one and two, which Miller & Smith is now calling Lakeside Village because it is a new area and is not going to be a part of Sand Dollar Village. Mr. Ellison further stated on the existing approved master plan, there was originally going to be attached housing, and Miller & Smith originally submitted the plan for some "quad-plexes," but, after thinking more, Miller & Smith decided the location may not be the best for attached housing. Mr. Ellison stated Miller & Smith decided to extend the same types of homes they were building in Sand Dollar Village – which they call

the Avalon sea line – and submitted today a preliminary plan showing about 45 lots suitable for the existing product line Miller & Smith are now using, so there are roughly 20 percent less homes planned. Mr. Ellison stated he would like to be on the docket for the Council’s January meeting but is unsure because of the holidays and getting together with URS. Ms. Botchie stated she thinks Miller & Smith could get in for the January meeting. Mr. Ellison stated the last thing is Miller & Smith have met with some Town representatives as well as URS representatives to prepare and submit a revision to the master plan, and Miller & Smith should be submitting it sometime near late January/early February 2014. Mr. Ellison further stated Miller & Smith have been giving a lot of thought to the town center and what it could be, and they have some interesting ideas on how that could come about. Ms. Botchie stated it has been most helpful to her, Town Code & Building Administrator Eric Evans, Council Member Harry Kent, URS representative Kyle Gulbranson, and Mayor Gerry Hocker working on the new master plan and having the meetings with Mr. Ellison and his team.

7. PROPERTY OWNERS/AUDIENCE COMMENTS:

Richard Shoobridge, of Tybee Street, stated he thought that when Council Member Kent originally brought up the access road, it was to provide the property owners – from Sand Dollar Village – safe access to the community center, but Mr. Shoobridge is concerned that property owners will get hurt, run off the road, and possibly killed off Substation Road because there is no bike lane or sidewalk and a lot of dump trucks use that road. Mr. Chuck Ellison, of Miller & Smith, stated there were two components to the original site plan approval, and one was the secondary emergency access for emergency vehicles, and the second was a temporary bicycle trail from Sand Dollar Village down to the lifestyle center, which is still on the plan and Miller & Smith has not asked for that to be removed.

Linda Kent, of Cypress Point Trail, stated, as the market manager, that she sent her reply notifying that she and Ms. Botchie will be attending the January 28, 2014, state market meeting up in Dover, Delaware. Mrs. Kent stated, as the chair of the Millville volunteers, there will be a January 6, 2014, meeting with two (2) new potential volunteers, and she has two others – maybe four – from her development.

8. ANNOUNCEMENT OF NEXT MEETING:

Mayor Hocker announced there will be no workshop in December, but the next Town meeting will be the Town’s regular meeting on January 14, 2014.

9. ADJOURNMENT:

Council Member Bennett motioned to adjourn the meeting at 7:58 p.m. Council Member Gordon seconded the motion. Motion carried 5-0.

Respectfully submitted,
Matt Amerling, Town Clerk